



**MINUTES  
FREMONT PLANNING COMMISSION  
REGULAR MEETING OF APRIL 27, 2006**

CALL TO ORDER: Chairperson Lydon called the meeting to order at 7:00 p.m.

PRESENT: Chairperson Lydon, Commissioners Chan, Chugh, Harrison, King, Lorenz, and Sharma

ABSENT: None

STAFF PRESENT: Jeff Schwob, Planning Director  
Joan Borger, Assistant City Attorney  
Kathleen Chu, Senior Civil Engineer  
Scott Ruhland, Associate Planner  
Alice Malotte, Recording Clerk  
Chavez Company, Remote Stenocaptioning  
Miriam Shallit, Video Technician

APPROVAL OF MINUTES: Regular Minutes of April 13, 2006 with the following correction:

Page 6: "**Commissioner Lorenz** humorously commented that knowledge gained by Commissioners who attended the Planning Institute could be dangerous."

Page 3: **Commissioner Sharma** asked staff to confirm that speaker Cliff Williams actually resided in Fremont. It was agreed that the speaker had given his residence as being in Fremont.

**CONSENT CALENDAR**

Other items were discussed for inclusion on the Consent Calendar, but various speakers indicated a wish for a public hearing.

THE CONSENT LIST CONSISTED OF ITEM NUMBERS 3, 6, AND 7.

IT WAS MOVED (HARRISON/KING) AND UNANIMOUSLY CARRIED BY ALL PRESENT THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTION ON ITEM NUMBERS 3 AND 6.

**Item 3. CENTERVILLE GROVE TOWN HOMES – 4141 & 4155 Central Avenue - (PLN2006-00067)** – to consider a Vesting Tentative Tract Map, Preliminary Grading Plan, and Private Street for a 15-unit town house development located on 0.84 acres, in the Centerville Planning Area. A Mitigated Negative Declaration was previously adopted for this site.

**HOLD PUBLIC HEARING;**

**AND**

**FIND THE INITIAL STUDY CONDUCTED FOR THE PROJECT EVALUATED THE POTENTIAL IMPACTS THAT COULD CAUSE AN ADVERSE EFFECT, EITHER INDIVIDUALLY OR**

CUMULATIVELY, ON WILDLIFE RESOURCES, AND CONCLUDED THAT THE IMPLEMENTATION OF APPROVED MITIGATION MEASURES WOULD REDUCE ALL IDENTIFIED IMPACTS TO A LEVEL OF LESS THAN SIGNIFICANT. THEREFORE, BECAUSE THE PROPOSED PROJECT HAS NOT CHANGED, FIND THAT THERE IS NO EVIDENCE THE ADDITIONAL ENTITLEMENTS WOULD HAVE ANY POTENTIAL FOR ADVERSE EFFECT ON WILDLIFE RESOURCES;

AND

FIND THAT THE PREVIOUSLY ADOPTED MITIGATED NEGATIVE DECLARATION AND MITIGATED MONITORING PLAN FOR THE PROJECT ARE VALID AND THAT THERE IS NO SUBSTANTIAL EVIDENCE THAT THE PROJECT, AS MITIGATED, WILL HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT AND FURTHER FINDING THAT THIS ACTION REFLECTS THE INDEPENDENT JUDGMENT OF THE CITY OF FREMONT;

AND

FIND THAT THE PROPOSED PROJECT IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN AND CENTERVILLE SPECIFIC PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN AND CENTERVILLE SPECIFIC PLAN AS ENUMERATED WITHIN THE STAFF REPORT AND FINDING EXHIBITS ADOPTED/RECOMMENDED HEREWITH;

AND

FIND VESTING TENTATIVE TRACT MAP 7694 AS SHOWN ON EXHIBIT "A", PRELIMINARY GRADING PLAN AND PRIVATE STREET SHOWN ON EXHIBIT "B" ARE IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN AND STANDARDS OF THE FREMONT MUNICIPAL CODE;

AND

APPROVE VESTING TENTATIVE TRACT MAP 7694 AS SHOWN ON EXHIBIT "A", PRELIMINARY GRADING PLAN AND PRIVATE STREET AS SHOWN ON EXHIBIT "B", SUBJECT TO FINDINGS AND CONDITIONS ON EXHIBIT "C".

- Item 6. CASTILLEJA TRACT MAP– 48835- 48881 Kato Road – (PLN2006-00206)** - to consider a Vesting Tentative Tract Map 7757, a preliminary grading plan and a private street for a 114 unit residential development in the Warm Springs Planning Area. A Mitigated Negative Declaration has been prepared and circulated for this project.

**CONTINUE TO MAY 11, 2006 TO ALLOW THE APPLICANT TO PROVIDE ADDITIONAL INFORMATION REGARDING STORMWATER TREATMENT REQUIREMENTS AND TO ALLOW THE APPLICANT AND STAFF TO MEET WITH VALLEY TRANSPORTATION AUTHORITY (VTA) REGARDING POTENTIAL IMPACTS TO THE SILICON VALLEY RAPID TRANSIT CORRIDOR.**

The motion carried by the following vote:

AYES:	7 – Chan, Chugh, Harrison, King, Lorenz, Lydon, and Sharma
NOES:	0
ABSTAIN:	0
ABSENT:	0
RECUSE:	0

IT WAS MOVED (HARRISON/KING) AND CARRIED BY THE FOLLOWING VOTE (6-0-1-0-0) THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTION ON ITEM NUMBER 7.

- Item 7. IRVINGTON PET HOSPITAL CUP – 41180 Fremont Boulevard – (PLN2006-00223)** - to consider a conditional use permit application for a veterinary hospital in the Irvington Planning Area. This project is exempt from the California Environmental Quality Act (CEQA) per section 15301, Existing Facilities.

**Commissioner Lorenz** abstained due to a financial conflict.

**CONTINUE TO MAY 11, 2006 TO ALLOW MODIFICATIONS TO FREMONT MUNICIPAL CODE ARTICLE 21.3 SPECIAL PROVISIONS SECTION PERTAINING TO ANIMAL HOSPITALS AND/OR A VARIANCE.**

The motion carried by the following vote:

AYES: 7 – Chan, Chugh, Harrison, King, Lydon, and Sharma  
NOES: 0  
ABSTAIN: 1 – Lorenz  
ABSENT: 0  
RECUSE: 0

**PUBLIC COMMUNICATIONS**

**ORAL COMMUNICATIONS**

**PUBLIC HEARING ITEMS**

- Item 1. PACIFIC STATES STEEL – 1097 Kraftile Road – (PLN2003-00219)** – to consider a Vesting Tentative Tract Map 7442 and Preliminary Grading Plan to subdivide 1.26 acres into six lots for development of single family homes located in the Niles Planning Area. A Mitigated Negative Declaration has been prepared and circulated for this project.

**Derek Farmer**, representing KB Homes, introduced Eddie Soo with RJA Civil Engineers and stated that they were available for questions.

**Commissioner Lorenz** had the following questions and the applicant responded as follows:

- Condition 5: Would landscape district provide for graffiti abatement along sound wall until landscaping vines covered wall?  
*Yes it would.*
- Condition 35: Why would the vehicle gate at Gold Street and Niles Boulevard be installed?  
*Both the City of Fremont and the City of Union City had agreed on the design and location of the gate, along with concerns by the City of Fremont about traffic. CEQA documentation would be needed before a through city street would be allowed. The gate would be located in Union City, so their public works Department would be the approval agency. Access for pedestrians and bicycles would be allowed.*
- Was the gate to be constructed at that location to provide traffic mitigation?  
**Associate Planner Ruhland** answered that, yes, it was strictly for traffic mitigation.
- Was the applicant interested in acquiring and developing the Nye and Jibson properties at the end of the road?  
*Mrs. Nye had been contacted, but there had been no response. The Jibson property was now for sale. However, it would involve CEQA documents and the applicant had decided not to include it at this time.*
- **Commissioner Lorenz** agreed that the Jibson property was for sale. What was the current zoning for the property?  
**Planning Director Schwob** replied that the surrounding properties on Kraftile Road were General Industrial Land Use and zoning. The Jibson towing tenant was now gone and the challenge would be to clear the property environmentally, because of the former uses. Staff was working on changing the zoning.

**Vice Chairperson Chan's** questions and the answers were as follows:

- How old are the homes in the KB Homes development in Union City adjacent to this project?  
*The first 290 single-family homes had been constructed in December 2004 and approximately three-quarters of them were occupied. The 216 townhomes (condominium units) were currently under construction.*
- What was the timeframe for construction for this new project?  
*Construction was hoped to begin in the fall. This project would be an extension of the Union City development.*
- What was the off-street right-of-way?  
*A six-foot strip needed to be acquired and would, eventually, be deeded over to the City when the city decided to accept it as a public street. It would be a part of the Krafttile Road street improvements.*
- Where exactly was this six-foot strip on the map?  
*The applicant described where the six-foot strip was located.  
**Eddie Soo**, engineer, pointed out on the map where the strip was located.*
- Was this a city-imposed requirement?  
***Planning Director Schwob** stated that it was not city imposed.*
- What was a monolithic sidewalk?  
***Mr. Soo** stated that the sidewalk would be adjacent to the curb and gutter as opposed to locating a planting strip between them.*

**Chairperson Lydon** questioned why the gate was necessary. He asked if it would be installed between two adjacent neighbors.

**Mr. Farmer** replied that the EVA gate would be located just over the Union City boundary and it would next to Lot No. 6 in this project.

**Chairperson Lydon** asked how the owner of Lot No. 6 would pick up his neighbor, who lived on the other side of the gate in Union City, for dinner?

**Mr. Farmer** stated that the owner of Lot No. 6 would have to drive back to Decoto Road and go into the Union City portion of the development from Union City. The only people who will have a key to the Knox lock would be fire, police and emergency personnel for both the City of Fremont and Union City.

**Chairperson Lydon** questioned that all emergency personnel would have access to the Knox lock, as the police and other emergency personnel had never had the key. He was very concerned that there could be a police, medical or fire incident on one side of the gate and emergency personnel from either Union City or Fremont on one side of the gate would not have access through the gate to the residences on the other side of the gate in the other city. He asked, "Who would own the liability if an emergency vehicle could not get through?"

**Mr. Farmer** said that the gate would be maintained by the City of Union City Public Works Department.

**Commissioner King** believed that if the City of Fremont sought the EVA gate, then it would also be liable.

**Chairperson Lydon** asked staff if that was the city's understanding and if staff was aware of a similar situation between two cities in the area.

**Planning Director Schwob** replied that the gate would be at the end of a street located in Union City and he was not aware of a similar situation anywhere else.

A discussion ensued between the Commission and the applicant regarding the safety of the residents on either side of the gate and the ability of one city on one side of the gate being able to provide emergency care on the other side of the gate. A device was also discussed that emergency personnel could use to unlock the box without physically getting out of their vehicles.

**Associate Planner Ruhland** stated that the gate was an improvement that had to be installed in connection with the Union City development. For KB Home to obtain final map approval from Union City, they had to install the gate.

**Mr. Farmer** stated that the temporary access agreement had been approved by the Fremont City Council and a condition required that the applicant construct the EVA gate at the end of the 18-month temporary access through Niles, which was shortly coming to an end. He planned to ask for an extension of that agreement at the next Fremont City Council meeting.

**Commissioner Harrison** asked if the landscape improvement maintenance area would be part of the homeowner's association and who would perform the maintenance.

**Mr. Farmer** understood that the Landscape, Lighting and Maintenance District would run in perpetuity and would be noted on the titles of each property. A homeowners association was impractical with just six homeowners. The city would create the language that would become part of the titles.

**Chairperson Lydon** opened the public hearing.

**Mr. Farmer** concluded by stating that the gate had been a concern for a long time, and he would do whatever the cities wished. He just wanted to move forward with his project while the cities continued to debate this gate.

**Commissioner Harrison** asked if it was decided that the gate should not be built and there were traffic mitigations offsite, would the applicant be willing to contribute what would have been spent for the gate toward offsite traffic mitigations.

**Mr. Farmer** agreed his request was very reasonable.

**Chairperson Lydon** closed the public hearing.

**Vice Chairperson Chan** asked if the Commission approved this item, was there some way that the Commissioners could advise the City Council of their concerns about the gate.

**Planning Director Schwob** clarified that the applicant planned to request an extension of the temporary access agreement from City Council at its next meeting. The Commission could formulate recommendations concerning the gate, and those recommendations could be forwarded to the City Council, along with tonight's minutes, independent of the project.

**Assistant City Attorney Borger** reminded the Commission that the gate requirement was part of the adjacent project and was not a part of this project that before the Commission at this time. The Commission had neither authority nor jurisdiction to take action with respect to the gate. Certainly, the Commission's comments could be forwarded to the City Council. Full environmental review, along with a traffic study would have to be performed, if a through street were to be allowed.

Again, more discussion was held between staff and the Commission concerning the EVA gate. It was decided that the project would be approved. A separate recommendation would be made to City Council that a gate between two public roads was a potential impairment to public safety, and the Commission would encourage the city to rethink the gate issue with Union City.

**Commissioner King** stated that, in his opinion, approval of this project would pose a safety hazard to both emergency vehicles and to the six future homeowners. He would have to vote against the project.

**Commissioner Sharma** noted that the gate would be installed on the Union City side of the adjacent development, whether or not the project before the Commission were approved. He would vote to support the project, as he expected that the two cities could work out the gate problem. He asked what the Commission could put in writing to make certain that both cities would consider some alternative that would ensure everyone on both sides of the gate was taken care of.

**Planning Director Schwob** suggested that the Commission adopt a separate motion that recommended both cities should take a look at the gate from a public safety standpoint, for all of the reasons discussed.

**Commissioner Lorenz** reminded the Commission that the applicant's engineer stated that a device was available that would allow the gate to be opened by emergency personnel. This Commission was fortunate to have a retired Fremont Fire Chief as a member, and his concerns needed to be taken seriously. He asked the applicant to provide more information about the device, so that the city could avoid having to mitigate traffic on the Fremont side of the gate and still allow for emergency vehicle access. He would support the project.

**Commissioner Chugh** stated that it appeared that all interested parties had approved the gate. He asked staff if all of these concerns had been considered or had someone, somewhere missed something. He asked if an option was possible that staff could look at options to satisfy former **Fire Chief/Chairperson Lydon's** concerns.

**Planning Director Schwob** suggested that the Fire Department was present at the meeting concerning the gate and it did have access. However, the Police Department had not been present. He agreed that staff could look into the device, along with the cost for each vehicle and which emergency vehicles would be equipped with an "opener". He believed that Council could direct staff in how to proceed after hearing the Commission's comments and concerns.

**Chairperson Lydon** stated that he wanted to avoid making "government look silly." Hindering emergency vehicles from getting from one side of the gate to another could do just that, if a reasonable solution could not be had.

**Vice Chairperson Chan** asked if the gate would be cumbersome to remove, if the residents on both side of it eventually decided that it should be taken down. What would be the process?

**Planning Director Schwob** answered that a traffic analysis needed to be performed to see what the impact on each city would be if the EVA were opened up. The connection between Niles Boulevard and the Niles bridge also needed to be studied to make it as safe as possible.

IT WAS MOVED (LORENZ/HARRISON) AND CARRIED BY THE FOLLOWING VOTE (6-1-0-0-0)  
THAT THE PLANNING COMMISSION HOLD PUBLIC HEARING;

**AND**

**FIND THAT THE MITIGATED NEGATIVE DECLARATION PREPARED AND CIRCULATED FOR THE PROJECT ADEQUATELY ADDRESSES POTENTIAL IMPACTS AND THE IDENTIFIED MITIGATION MEASURES WILL REDUCE POTENTIAL IMPACTS TO LESS THAN SIGNIFICANT LEVELS AND FURTHER FIND THAT THIS ACTION REFLECTS THE INDEPENDENT JUDGMENT OF THE CITY OF FREMONT;**

**AND**

**APPROVE THE MITIGATION MONITORING PLAN FOR PACIFIC STATES STEEL (PLN2003-00219);**

**AND**

**FIND VESTING TENTATIVE TRACT MAP 7442 AND PRELIMINARY GRADING PLAN ARE IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S HOUSING AND LAND USE CHAPTERS AS ENUMERATED WITHIN THE STAFF REPORT;**

**AND**

**APPROVE VESTING TENTATIVE TRACT MAP 7442 AND PRELIMINARY GRADING PLAN, AS SHOWN ON EXHIBIT "A", SUBJECT TO FINDINGS AND CONDITIONS ON EXHIBIT "B".**

The motion carried by the following vote:

AYES:	6 – Chan, Chugh, Harrison, Lorenz, Lydon, and Sharma
NOES:	1 – King
ABSTAIN:	0
ABSENT:	0
RECUSE:	0

**Planning Director Schwob** summarized the components of the recommendation concerning the gate to be made to City Council:

- City Council reconsider gate for public safety reasons
- Perform necessary studies in consideration of the elimination of gate
- Recommend City Council extend agreement. Allow cities and applicant to work towards solving problems of no gate and studies that could support not having gate
- Use applicant's money that might have been used to build gate towards traffic mitigation

**IT WAS MOVED (HARRISON/CHAN) AND CARRIED BY THE FOLLOWING VOTE (7-0-0-0-0) THAT THE PLANNING COMMISSION RECOMMEND TO CITY COUNCIL THAT THE INSTALLATION OF A GATE BE RECONSIDERED, BECAUSE OF FINDINGS OF PUBLIC SAFETY FOR BOTH CITY OF FREMONT AND CITY OF UNION CITY RESIDENTS;**

**AND**

**REQUEST APPLICANT'S DEADLINE OF MAY 5, 1006 FOR INSTALLATION OF THE GATE BE EXTENDED TO ALLOW TIME FOR STAFF TO WORK WITH THE CITIES;**

**AND**

**TRAFFIC STUDY BE PERFORMED, IF DEEMED NECESSARY;**

**AND**

**CONTINUE TO WORK WITH UNION CITY AND THE APPLICANT TOWARDS RESOLVING THE SITUATION WITHOUT A GATE;**

**AND**

**WORK WITH APPLICANT TO TRANSFER FUNDS ALLOCATED FOR THE GATE TO OFFSITE MITIGATION MEASURES, IF DEEMED NECESSARY.**

The motion carried by the following vote:

AYES:	7 – Chan, Chugh, Harrison, King, Lorenz, Lydon, and Sharma
NOES:	0
ABSTAIN:	0
ABSENT:	0
RECUSE:	0

**Item 2. LIBERTY RETAIL BUILDING – 3101 Stevenson Boulevard - (PLN2005-00323)** - to consider a Planned District Minor Amendment application for Site Plan and Architectural Review for a new 16,029 square foot commercial/retail shell building located in the Central Planning Area. A Mitigated Negative Declaration has been prepared and circulated for this project.

**Planning Director Schwob** stated that staff had also included elevations of a future six-story building that was to be constructed where the FAME Charter school was currently located.

**Commissioner Harrison** disclosed that he had spoken to the applicant by telephone.

**Sean Keller**, Shapell Industries, introduced Luke Bolinger with Habitec Architectural and Planning, the project architect. He asked for questions from the Commission.

**Commissioner King** asked if this project would be built by Shapell. He lived in a home built by Shapell, and he was very happy with it.

**Mr. Keller** answered that this project would be developed by Shapell.

**Commissioner Sharma** asked if the applicant would be comfortable with changing the parking, per Condition 44, and which condition would they plan to meet.

**Luke Bolinger** replied that they were comfortable with that condition. Option C, would provide additional parking in the new parking structure, would probably be the condition they would prefer to use.

**Vice Chairperson Chan** asked what type of proposed retail businesses and restaurants did the applicant foresee. She asked if they would be retaining a leasing agent.

**Mr. Bolinger** answered that no leases had been signed. They anticipated some restaurant use, possibly a café or coffee shop. A bank would also be desirable. Services, small offices, small retail would also be attractive. They currently had a leasing agent.

**Mr. Keller** agreed that no leases were firm, as they needed to obtain approval so that they have some projected dates for the finish of construction, before they could expect anyone to be seriously interested.

**Commissioner Lorenz** stated that during a recent City Council meeting, it was announced that the City Council and staff would meet to embark upon "a community visioning session," which would be communicated to the Planning Commission. He had the following questions and comments with the answers provided by the applicant:

- Viability of retail in that area was a concern and the city Economic Development staff shared some of the same concerns.  
*Kelly Erardi, Vice President with Shapell, stated that he was responsible for commercial development in Northern California. They had worked closely with staff and had made some redesigns. He was confident that the proposed project could accommodate retail, offices, restaurants or medical uses, and the plans had been redesigned to be flexible, which he believed would stand "the test of time better than some of their previous designs."*
- Public art would face the parking lot and not out onto the main boulevards. Both fountains were in the parking lot.  
*Mr. Bolinger stated that the same person who had designed the fountain across the street had designed the fountain. He envisioned pedestrians gathering more within the interior courtyard where they would be protected from the street noises.*
- No front doors would face either Stevenson Boulevard or Liberty Street, except for the corner of the building. What was envisioned as a bank on the east end of the project?  
*Mr. Bolinger stated that the architectural elements that would front Stevenson Boulevard and Liberty Street would do a good job of inviting people towards the building. Steps would allow a pedestrian to come up to the building from the corner.*

- All doors faced the parking lot. Yet, from an urban design standpoint and to provide pedestrian friendliness, entering from the street should be an option.  
*Mr. Bolinger stated that large, window display boxes would be on the street side of the building to avoid the "back of the house" look. Signage would also create interest, which would encourage customers to come into the center.*
- Bathrooms were all pushed towards the street-front of the building, which would limit window space.
- Architecture was what one would describe as today's typical strip mall. Behind this project were big, black-glassed, cube buildings, and the proposed architecture was not compatible with them.  
*Mr. Farmer stated that the fountain would be made of black granite, which would provide a transition from the nearby black, 1970s-1980s vintage, office building to this one-story project.*  
  
*Mr. Bolinger believed that the retaining walls, the plazas, the patio seating and the stairs would create a friendly, outdoor environment. These tenant spaces would be narrow and deep, and space for restrooms and goods storage would be provided in the portion of the building that backed up to the streets. Doors opening up to the streets would not provide good storage space for these spaces.*
- The corner unit at the corner of Liberty Street and Stevenson Boulevard should have a larger visual element to help this development to stand out. He suggested something like a clock tower.  
*Mr. Farmer agreed that the clock tower element suggestion was a good one. The element that was originally planned was a little larger, but it had been toned down. Architectural elements would be located at the corner of the building, facing Heritage Bank and on Liberty Street.*
- Large intersections, such as the one at Liberty Avenue and Stevenson Boulevard, were not pedestrian friendly. Some kind of a strong architectural element was needed to pull in the customers and overcome the large intersection.
- Once the six-story building was ready to construct, architecture that was more compatible with the three-story glass cube and the Heritage Bank should be considered.
- If medical offices were expected to fill this project, then an office building should be constructed on the corner, rather than a retail center. He asked for a percentage estimate of what the mix of retail and office uses would be. Would the applicant estimate that this development would have three retail uses and six office uses?  
*Mr. Erardi guessed that one would see a small coffee shop, some sort of a financial institution, and other potential uses could include a title company, a medical use, or a real estate office, and small food uses. The corner location had a high ceiling with outside seating available, which would be a good place for a restaurant. There could be as many as nine spaces. However, a restaurant might take two or three of those spaces, along with other businesses that would take more than one space.*
- The applicant was asked to work with the city Economic Development Department to assist with retail recruitment, as was done with the Centerville Marketplace project, in which signed leases prior to groundbreaking were expected.
- Had staff requested that the corner element be "toned down?"  
*Mr. Bolinger replied that a corner element with a non-parapet tile roof had been originally designed that had been much larger and taller. Staff had directed them towards a more parapet-style roof system. The center focal point was tallest and the two corners were not as tall, but taller than a normal, single-story building.*

**Mr. Erardi** believed that a better building had been designed after direction from staff.

**Commissioner King** stated that he had thought of many of the same questions as **Commissioner Lorenz** had asked. He knew of no men's clothing store in the city, as well as a woman's clothing store. Why did the applicant think retail would work in this location? He did not like an enclosed center, which sent the message to him, "Stay out."

**Mr. Erardi** admitted that not many people would walk past a building at that location. He believed that good signage and the window boxes would provide a building that would be attractive to people on their way to the Police Department and the park, along with people who worked in the surrounding 300,000 square feet of office space and who might chose to walk to the development rather than travel by auto to have their hair cut or nails done or to have a cup of coffee. He stated that Shapell had owned this property for some time. The reason he felt it was now ready for a small shopping center was because the surrounding areas were a little bit more built out, which would provide customers who lived and worked nearby.

**Commissioner Chugh** wondered why the Economic Development Department had not communicated their opinion sooner. He asked if the applicant would be open to building the project differently to be timeless, priceless, always with a look of newness. He wondered if the Commission should second-guess the Planning staff and this developer who had many years of experience.

**Commissioner King** stated that he always came to Commission meetings planning to approve staff's recommendation on every project. However, it seemed that it was the Commission's job to stay true to its vision of what the city should look like. He stated that he entertained many international visitors, and they found the city to be lacking in charm with many strip malls and wide-open streets where people did not walk. However, when he took his visitor's to Pleasanton, they found a town with some charm. When he voted against staff's recommendation, it was usually because he did not see any charm or did not believe the project would contribute to making the city more livable. He hoped this project would be successful, of course, and he suggested they bring in his favorite men's shop from San Francisco.

**Vice Chairperson Chan** commented that no retail was nearby, but understood that it would be difficult to get people to commit to a space when the occupancy date was unknown. She agreed that many potential customers now lived nearby. She hoped that the slogan "If you build it, they will come" comes true. She liked the interior courtyard and stated that a really nice restaurant would be the business that would draw people into the development.

**Mr. Erardi** agreed with her statements. Being able to build a project in a flexible manner gave him an advantage compared to other developers who had to have most of the building leased before they could afford to build it.

**Commissioner Harrison** agreed with much of **Commissioner Lorenz's** comments but he was placing his reliance on Shapell as it was a great company and they were the experts. He recalled the "fake windows" at the back of two businesses on the corner of Mowry Avenue and Fremont Boulevard. They did provide that warm feeling. He believed that no matter what was built on that corner, not a lot of pedestrian activity would be generated. He agreed that a nice restaurant would probably entice the residents across the street into the center. A professional colleague had told him that he was hoping that a nice restaurant would locate within this development. This property had been vacant for way too long. The Commission should be supporting this project. He did not think it was fair to ask the applicant, as a private developer, to provide the names of potential lessees when nothing had been approved. However, speaking for the Commission, he did not want to see "three nail salons, a Quiznos and a dry cleaners."

**Chairperson Lydon** opened the public hearing.

**Sherman Ma**, a Liberty Commons resident, objected to the six-storied building that would block the view of Mission Peak from his house.

**Chairperson Lydon** stated that this project did not include a six-story building.

**Commissioner Harrison** explained that the six-story building had been approved in 1999 for a different spot. This location on the corner of Liberty Street and Stevenson Boulevard would house a one-story retail building.

**Mr. Ma** continued with his concern about attracting more traffic to the project. He also worried about the noise generated early in the morning while he was sleeping.

**Commissioner Sharma** asked if the speaker owned his home and where his home was located within the project.

**Mr. Ma** replied that his home was on the street, and he had paid a premium for it because of his view of Mission Peak. He was able to view the fireworks at the park from his bedroom.

**Mr. Erardi** stated that he had no more comments, unless the Commission had more questions.

**Chairperson Lydon** closed the public hearing.

**Commissioner Sharma** liked the idea of the project's flexibility and that it would provide for a variety of tenants. The citizens of the city had some work to do with supporting the local businesses. He hoped to see a good restaurant or nice coffee shop where everyone would drive in or walk to from the nearby offices and the medical clinic. Even the city offices were nearby. He would support the project.

**Commissioner Lorenz** stated that the Commission wanted more retail in the city, and they wanted successful retail. He wanted this applicant to be "wildly successful and to have traffic problems because of that success." However, he would not support this project, because, in his experience, it was isolated retail, there was no retail critical mass, the visual element needed to be improved and the public art needed to be closer to the street to create a more attractive urban landscape.

**Chairperson Lydon** stated that he had a similar concern. He hoped Fremont residents would be as enthusiastic about this development as **Commissioner King** was about his Shapell home. He was afraid that this project would not generate the foot traffic that the Commissioners wished to see, but he was willing to take a chance, because of Shapell's expertise versus what he thought might happen. The city would like to be Shapell's partner in the city's brighter future. He wished the applicant good luck.

IT WAS MOVED (KING/HARRISON) AND CARRIED BY THE FOLLOWING VOTE (6-1-0-0-0) THAT THE PLANNING COMMISSION HOLD PUBLIC HEARING;

**AND**

**FIND THE INITIAL STUDY HAS EVALUATED THE POTENTIAL FOR THIS PROJECT TO CAUSE AN ADVERSE EFFECT EITHER INDIVIDUALLY OR CUMULATIVELY ON WILDLIFE RESOURCES. THERE IS NO EVIDENCE THE PROPOSED PROJECT WOULD HAVE ANY POTENTIAL FOR ADVERSE EFFECT ON WILDLIFE RESOURCES;**

**AND**

**ADOPT MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING PLAN AND RECOMMENDED THE USE OF CERTIFICATE OF FEE EXEMPTION AND FIND THESE ACTIONS REFLECT THE INDEPENDENT JUDGMENT OF THE CITY OF FREMONT;**

**AND**

**FIND PLN2005-00323 AS PER EXHIBIT "A" IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S FUNDAMENTAL GOALS AND LAND USE CHAPTER AND AS ENUMERATED WITHIN THE STAFF REPORT. THE PROJECT CONFORMS TO THE GOALS AND OBJECTIVES OF THE CENTRAL BUSINESS DISTRICT CONCEPT PLAN;**

**AND**  
**APPROVE PLN2005-00323 (LIBERTY RETAIL BUILDING) AS SHOWN ON EXHIBIT "A" AND EXHIBIT "C", SUBJECT TO FINDINGS AND CONDITIONS ON EXHIBIT "B".**

The motion carried by the following vote:

AYES:	6 – Chan, Chugh, Harrison, Lorenz, Lydon, and Sharma
NOES:	1 – Lorenz
ABSTAIN:	0
ABSENT:	0
RECUSE:	0

**Planning Director Schwob** announced that he would like to take a photo of the commission to post on the City's web page during the next recess.

**Chairperson Lydon** called for another ten-minute recess at 9: 20 p.m.

**Chairperson Lydon** called the meeting back to order at 9:32 p.m.

**Item 4.     LI MIXED USE BUILDING - 38523 Fremont Boulevard - (PLN2006-00087)** - to consider a conditional use permit application for the demolition of a 1,520 square foot commercial building and the construction of a 7,583 square foot mixed use building with 2,415 square feet of retail space and 4,342 square feet for three apartment units. This project is exempt from the California Environmental Quality Act (CEQA) per section 15332, In-Fill Development Projects.

**Minxi Liu**, architect, introduced the owner, Yi Feng Li. He stated that the one-story commercial building had been vacant for more than three years, and it was located in the center of the lot. He agreed with staff's findings, and he offered to answer questions from the Commission.

**Commissioner Harrison** asked what the dashed area was near the parking spaces. He noted that he and **Commissioner Lorenz** were Washington High School alumni, and he had noticed the students on the street at lunchtime when he drove by. He asked that a condition be added that would require frequent litter removal on the Fremont Boulevard side of the property, as had been required of the nearby MacDonald's. He asked if a condition concerning the screening of cooking odors was a part of this application.

**Planning Director Schwob** replied that the dashed area showed the accessible pathway from the parking to the building, as required by California and Federal codes. Special pavers would be used to make it more attractive. He agreed to review the conditions to make sure that odor filters would be installed and kept clean.

**Mr. Liu** agreed that litter removal was pretty reasonable.

**Commissioner Lorenz** echoed **Commissioner Harrison's** comments regarding the Washington High School students. He asked if outdoor seating would be provided, because he expected that the students would patronize the take-out restaurant. Therefore, he asked that some of the landscaped area be changed to allow for seating. He asked if the applicant had seen this flow of students near his property at lunchtime.

**Mr. Liu** did not expect to provide outdoor seating; all seating would be indoors. However, outdoor space about four feet from the pavement would be available. He had not observed the students at lunchtime and agreed that the aesthetics of the property would improve if seating was available.

**Vice Chairperson Chan** asked the status of the trash enclosure location and if it would be brought up to the front.

**Mr. Liu** replied that the trash enclosure would be moved to the back of the lot after meeting with the neighbors and hearing their concerns. Bringing the trash up to the front had been arranged with the waste hauler.

**Commissioner Sharma** asked if the color rendering accurately showed the building colors. He did not like the chosen building color, as he felt the pink was too vibrant.

**Mr. Liu** answered that the rendering was close enough.

**Chairperson Lydon** opened and closed the public hearing.

**Commissioner Lorenz** would support the project with an additional condition that would provide seating for the students that were expected to patronize the restaurant.

**Commissioner Sharma** asked that the colors be downplayed a little to blend better with the neighborhood.

**Commissioner Lorenz** stated that the building would be visually distinctive and "beauty was in the eye of the beholder." He would not include changing the building color in his motion.

**Planning Director Schwob** noted that Condition B-7 addressed the odor filter. For the record, once the various campuses within the Fremont Unified School District had completed their bond improvements, the campuses would be closed during the lunch hour.

IT WAS MOVED (LORENZ/HARRISON) AND CARRIED BY THE FOLLOWING VOTE (7-0-0-0)  
THAT THE PLANNING COMMISSION HOLD PUBLIC HEARING;

**AND**

**FIND PROJECT EXEMPT FROM CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PER  
SECTION 15332, IN-FILL DEVELOPMENT;**

**AND**

**FIND CONDITIONAL USE PERMIT, PLN2006-00087, IS IN CONFORMANCE WITH THE  
RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE  
PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE  
GENERAL PLAN'S LAND USE CHAPTER AND CENTERVILLE SPECIFIC PLAN AS  
ENUMERATED WITHIN THE STAFF REPORT;**

**AND**

**APPROVE CONDITIONAL USE PERMIT, PLN2006-00087, AS SHOWN ON EXHIBIT "A" (SITE  
PLAN, FLOOR PLAN, ELEVATIONS) AND EXHIBIT "C" (MATERIALS AND COLOR SAMPLE  
BOARD), SUBJECT TO FINDINGS AND CONDITIONS ON EXHIBIT "B";**

**AND**

**ADD A CONDITION REQUIRING LITTER CLEAN-UP;**

**AND**

**ADD A CONDITION PROVIDING FOR OUTDOOR SEATING.**

The motion carried by the following vote:

AYES:	7 – Chan, Chugh, Harrison, King, Lorenz, Lydon, and Sharma
NOES:	0
ABSTAIN:	0
ABSENT:	0
RECUSE:	0

- Item 5. VILLA D'ESTE – Ardenwood Blvd & Paseo Padre Parkway – (PLN2006-00172)** - to consider a Planned District Major Amendment for Site Plan and Architectural Approval, Preliminary Grading Plan and Tentative Tract Map 7735 for 276 units on a 15.6-acre parcel, including 243 attached units in clusters of 3 & 6 unit buildings (43 buildings) and 33 single-family detached dwellings in the Northern Plain Area. A Mitigated Negative Declaration has been prepared and circulated for this project.

**Richard Frisbie**, representing John Laing Homes, stated that this property recently had its zoning changed to conform to the housing element, which had been required by the state and which explained the higher density for this project than the surrounding neighborhood had. The front doors of all the units would face out to the four surrounding streets of the project and no sound walls would be constructed, which would allow for a very open community. All of the single-family homes would have their garages in the back and accessed by a lane. This would allow them to interface with the homes across the street without garage doors facing the public streets. The main private areas would be to the side and most would have a southerly exposure, which was highly desirable in this particular area of the city. Townhome parking would be above what was required by the city within each unit. In addition, 81 tandem spaces had been added. Every townhome had at least a two-vehicle garage. Guest parking would be available in front of each home. He stated that the architect, landscape architect, civil engineer and the builder's representative were in attendance to answer questions.

**Commissioner Harrison** noted that every right elevation of the single-family homes looked blank and boring.

**Mr. Frisbie** agreed and stated that a condition had been added that required plantings and banding to add interest. That wall would be alongside the neighbor's private space.

**Commissioner Sharma** asked if a meeting had been held with the neighborhood to take care of their concerns.

**Mr. Frisbie** stated that the applicant had contacted all three surrounding homeowners associations and two of them had been met with. Their concerns related to issues that the applicant had no control over, such as, density and schools.

**Commissioner Chugh** noted that the below market rate (BMR) homes were at 20 percent, rather than the usual 15 percent, and that there were no Plan 3 BMR homes. Why?

**Mr. Frisbie** stated that the property owners had offered the 20 percent BMR as an incentive when the rezoning occurred. Working with the city's Housing Department, it was decided to offer BMR homes in the two of the three plans that he had mentioned.

**Mark Chamberlain**, John Laing Homes, stated that he and the Housing staff had decided to assign the BMRs to the Plan 1 and Plan 2 homes.

**Planning Director Schwob** added that the city housing division had worked with the applicant and he assumed that because Plan 3 was the smallest of the three plans, the BMRs were assigned to the larger units that could house families.

**Commissioner Chugh** agreed that the schools were not in either the Planning Department's or the applicant's control. He asked if the school district was given the opportunity to comment on the housing developments being constructed in their district. Why was the permeable pavement being recommended to address the urban water runoff, which was counter to other methods approved by Alameda County.

**Planning Director Schwob** replied that every project was referred to the school district and it had been contacted when the site was redesignated from commercial to residential and again when the application came to the city. The school district received developer impact fees, and it recognized that it had serious challenges in the Ardenwood area and throughout the city.

**Eddie Soo**, civil engineer, stated that permeable pavers would be placed over a layer of rocks, which would allow stormwater runoff to permeate through the rocks to a sand medium, which would act as a filter and would clean the runoff. Given the circumstances with the density and landscaped areas, this system would best meet the C3 [stormwater] requirements.

**Commissioner Chugh** asked if the engineer had chosen this kind of system because the density of the project required it. Would this be his first choice, if the density were less?

**Mr. Soo** stated that there were many ways to meet the C3 requirements, such as a mechanical system, permeable pavers, median filters, grassy swells.

**Commissioner Harrison** asked about the old well and old tank at the corner of the property at Tupelo Street and Tan Oak Drive.

**Mr. Chamberlain** said that old water well would be abandoned; per the Alameda County Water District; the old tank would be removed.

**Vice Chairperson Chan** had the following comments and questions and **Mr. Frisbie** answered, as follows:

- Would onsite guest parking total 113 spaces with an additional nine spaces on the west end of Tan Oak Drive?  
*Yes. The nine spaces would be in front of the townhouses on Tan Oak Drive.*
- Would signage designate this area for guest parking?  
*This was a public street, so it could not be signed. With no driveway aprons onto the street, it was practical to have guest parking in front of the dwelling units.*
- Eleven of the units could have second-dwelling units. Would one off street parking space be available?  
*The units with a second-dwelling unit were the single-family homes and the parking for the second-dwelling unit would be next to the home. Every single-family home would have three parking spaces within the garage with almost two spaces in front of the home on the public street.*
- Would the south side of Tan Oak Drive be opened up for parking?  
*That side of the development was originally planned for commercial and street parking would not have been encouraged. However, it had been decided to make it residential, so street guest parking would be available.*
- How would that be implemented?  
**Associate Planner Ruhland** replied that the "No Parking" signs would be removed.
- Would the "outdoor room" be included in the square footage of the home?  
*No, it would be a partially covered area with an optional fireplace.*
- How would the property deed show the "reciprocal yard easement?"  
*The outdoor space would be an integral portion of the side yard. Each home would be located in the center of the lot with a six-foot side yard on either side. With the reciprocal yard easement, the homeowner next door to the right wall would be able to use that six-foot side yard (on the unadorned side of the home) as part of their private space. On the single-family floor plan, he pointed out the six-foot side area with the additional six-foot area between the two homes, which would provide more private open space than was available in the existing surrounding homes.*
- What was the commitment to green building techniques?  
**Mr. Chamberlain** stated that a green building program for the whole site had been submitted for review.

**Commissioner Lorenz** was happy to hear that the ugly side elevations would be better articulated. He stated that the well that was to be abandoned and the less than sunny weather conditions were

perfect for the cauliflower that his family had grown on this site many years ago. The letter from the Capriana Homeowners Association had stated that they would prefer a density level no greater than average of the three neighborhood areas. He asked the following:

- What was the density specifically for the Capriana development?  
**Associate Planner Ruhland** answered that the density was 11-15 units per acre, as with everything else in the area.
- How much money would flow to the school district as fees that would be paid by the developer? He knew that the district used those funds for facility improvement.  
**Mr. Frisbie** replied that the applicant would pay fees of approximately \$2.50 per square foot, which would include the garages. The fees for one of the single-family homes would approach approximately \$8,000 per house. The townhouses were slightly smaller, so it would be a little less for them. He believed that the generation factors used by the school district were low, and he understood that they were being studied.

**Planning Director Schwob** stated that the school fees would go up to \$2.63 per square foot on May 8<sup>th</sup>.

**Commissioner Lorenz** stated that a quick calculation showed that \$1.2 to \$1.6 million dollars would be generated to the local school district by this development.

- Within the other project that **Mr. Frisbie** was involved with in mind, was a new school planned for the area?  
**Mr. Frisbie** stated that his client who was developing Patterson Ranch was planning for a new school and had offered to build it or give the school district the money to build it. It was up to the school district, although he understood that there might not be enough children to fill a new school. He knew that some students were being bussed out of Ardenwood to other schools at this time.

**Chairperson Lydon** asked if a developer constructed a school, did the school district still collect the square-foot fee?

**Mr. Frisbie** replied that the school district had indicated that it would want a development agreement concerning the new school. The mechanism had not been decided yet. More than likely, the school district would be given the money to allow it to build the school. He guessed that the fee would not be assessed as it was designated for facilities.

**Assistant City Attorney Borger** reminded the Commission that the other project and the square foot fees were not before the Commission for a decision.

**Chairperson Lydon** opened the public hearing.

**Heather Ramamurthy** was concerned with schooling, as her children could not go to school in Ardenwood and Forest Park. She mentioned Olivera (a school she was unfamiliar with). She believed that crime would increase with the increased density, because the community had experienced numerous vehicle and home break-ins. She compared the proposed average density of 17 units per acre in this development to 5½ units per acre in India. She feared an earthquake could cause flooding with the Alameda Creek nearby, which was a flood zone.

**Commissioner Lorenz** asked if the speaker was a Capriana resident and he informed her that Olivera school was in Centerville.

**Ms. Ramamurthy** replied that she did reside in the Capriana development.

**Sajid Zia**, California Meadows resident across Tupelo Street, stated that his daughter was being bussed to Olivera, which was 15 minutes away. Until a clear plan was demonstrated as to how the schools would accommodate the new students, this development should not move forward.

**Commissioner Lorenz** commented that, based upon the school district's calculations for the housing units in this development, 50 students would be added to the student population.

**John Arlia**, California Meadows resident and association board member, stated that this area was not pedestrian friendly and an all-ways stop sign was needed at Geary Terrace, Tupello Street and Tan Oak Drive, which his association had requested several years ago. A crosswalk existed at Tupello Street and Paseo Padre Parkway where half of the time vehicles drove around the person crossing the street. The nearest safe crosswalk was at least one mile away. He suggested a second lane on Tupello Street be striped to ease the traffic flow rather than allowing parking for this development. The value of one's home reflected the nearby school district, and he asked that the crowded school problem be taken into consideration.

**Commissioner Lorenz** asked if the speaker was requesting a crosswalk at Tupello Street and Paseo Padre Parkway or if it was dangerous to cross at that area. He asked if this happened when crossing from the corner of Tupello Street and Paseo Padre Parkway to California Meadows on the other side.

**Mr. Arlia** replied that it was dangerous to cross, because there was no signal. Fifty percent of the time, drivers would not yield to the pedestrian and would drive around the person crossing. He pointed out the areas that he was concerned about on the site plan.

**Commissioner Harrison** asked if city staff had added the expected new vehicles into the traffic study model to arrive at the estimate for traffic flow.

**Associate Planner Ruhland** replied that the Traffic Engineering Division had performed a Stop Warrant Analysis for this intersection about six months ago and had determined that it was not warranted. However, another study would be performed after this development was built and functioning. It was anticipated that most of the vehicle traffic would exist the driveway and go to the signal at Tupello Street and Paseo Padre Parkway.

**Mr. Arlia** noted that traffic studies mentioned how many accidents had occurred at a particular place, but the near accidents were not counted.

**Lora Finnegan**, 20 year California Meadows resident, was concerned about the size and density of the development. She imagined the proposed density akin to squeezing "an elephant into a Speedo swimsuit." She believed the density would affect pressure on local roads, compatibility with surrounding neighborhoods and quality of life. As a Sunset Magazine writer for 30 years, she had never seen this many units put on a plot this small. She asked that more thought be put into the proposed density. These three-story giants would be out of character with the surrounding neighborhood and would create a wall that would block out the sun.

**Corrine Root**, Capriana resident, stated that she not opposed to development on this site, as it would be an improvement. However, she was also concerned about the density, which would fuel the other issues. She estimated that 700 vehicles would be added to the area, without counting guests and service providers. She did not understand why future traffic could not be estimated before this development was constructed. Ardenwood Boulevard, from the Highway 84 off ramp to Paseo Padre Parkway, needed repair and this development would add to its decline. She believed that moving the bus stop would add to near accidents, which were many. The egress from the development would be on a slight curve on Tan Oak Drive, and it would not allow drivers to see far enough up the street to exit safely.

**Dhaval Shah**, six-year resident of California Meadows, believed that notices should have been sent to the approximately 750 surrounding residents rather than the 157 notices that were sent, which meant that about 80 percent of the current homeowners had no chance to look at the change of density. He did not believe the estimated new students from the project would be what had been estimated. He did not like the three-story buildings proposed for the project, which would be out of character with the existing surrounding two-story homes.

**Chairperson Lydon** invited the applicant to respond to the issues brought up by the speakers, which were schools, earthquakes, police, pedestrians, stop signs, density, traffic flow and line of site issues.

**Mr. Frisbie** replied to the neighbors' concerns as follows:

- The school issue was out of his and the Commission's purview. Another school had always been planned for the Ardenwood area; however, the site was near PG&E utility lines.
- Policing would be something the city would have to address.
- This site was not in a flood zone. He knew that certain parts of Fremont Meadows were considered to be in a flood zone and that some lenders were still requiring flood insurance for those homeowners, who, he believed, could challenge their lenders and prevail.
- Approximately 17 units to the acre was not considered high density. He admitted that everyone would like to live in a Palo Alto-type environment where Sunset Magazine was located, but the reality was not possible for everyone. He guessed that the Capriana development was approximately 15 units to the acre with garages tucked under the two-living-level townhouses.
- City Traffic and Engineering had requested the entrances to the development to be exactly where they were shown on the plan in the interest of traffic flow. A traffic signal would be located at Paseo Padre Parkway and Tupelo Street. He agreed that a stop sign or crosswalk would be desirable at Tan Oak Drive and Tupelo Street.
- Three-story units were inevitable when a project had to meet this kind of density. The roof massing would be varied and not all of the entire townhome buildings would consist of three stories.

**Commissioner King** asked if the city had mandated that this project had to be 17 units per acre. In order to afford housing in the City of Fremont, this kind of development had to be built. He asked what the townhomes would sell for.

**Mr. Frisbie** replied that the city currently was encouraging every builder to meet the maximum density that the site could handle. The minimum density allowed for this site would be 20 units less than the 276 now planned. The site plan met city open space, parking, separation of buildings requirements and numerous other provisions. The townhomes would probably sell in the 600,000-dollar range with the single-family homes on 4600 square foot lots would probably sell for over one million dollars.

**Commissioner Chugh** asked, if the city had not required that this density be adhered to for this development, would the applicant have planned less density. He asked what kind of an answer would be given to potential homebuyers when the schools were asked about.

**Mr. Frisbie** stated that the value of the property would be higher if the density was lower. John Laing Homes had been chosen to do this development on this property, because of the type of product and because it was different from any other development within the city. The salespeople would be required to disclose the school situation to any potential buyer.

**Chairperson Lydon** closed the public hearing.

**Commissioner Lorenz** liked this project, it was of good quality; a buffer would be provided between the single-family homes and the townhomes. He would support the project, as long as the side elevations on the single-family homes were augmented.

**Commissioner Harrison** concurred with the previous comments. He encouraged staff to work with the neighbors concerning the traffic flow and public safety. He had checked the builder on the web and discovered that it had been voted America's Best Builder, Most Admired Builder of the Year and was very highly rated in a J.D. Power customer satisfaction survey. He applauded the property owner and the builder for adding more affordable units within the development than was required by law, which seldom happened. He would support the project and stated that he hoped that this project would be the first of many by the builder in the state.

**Chairperson Lydon** asked staff if the problem of escalating crime had been a part of any of the discussions.

**Planning Director Schwob** was not aware of a crime problem being an issue. It helped when communities instituted a Neighborhood Watch and were aware of what was happening in their neighborhoods. However, this was occurring everywhere, not only in one area.

**Chairperson Lydon** suggested that staff might prepare an answer to those kinds of comments before that kind of thinking had obtained a foothold, and people starting believing that they lived in a crime-ridden area with it affecting the sales of housing projects. He suggested that the Police Department might consider sharing messages with the homeowners to either refute (or to concur) that there was a crime issue. Building codes everywhere in California reflected the earthquake possibilities in the state.

**Commissioner Chugh** agreed that the reality of having to maintain the Housing Element was not something that could be shied away from. He was confident that this builder would build great homes. He also encouraged the applicant to continue to engage in dialogue with the neighborhoods and to make small gestures in order to be a good neighbor. He shared the speakers' frustration concerning the school. He encouraged those speakers to attend school board meetings to share their concerns with the school board members.

**Commissioner Sharma** stated that it was a nice project. However, the fact of life was that new housing in the city would not reflect what was in Palo Alto. He mentioned that, although he would continue to live in his neighborhood, he would no longer have children attending the nearby schools. He assumed that by the time this project was ready to be occupied by new homeowners, some of the surrounding neighbors would have children who no longer attended the local schools, which would allow space for the newcomers. The density of this development was necessary to give people a reasonably priced home so that they could afford to live in Fremont. He would support the project.

IT WAS MOVED (KING/HARRISON) AND CARRIED BY THE FOLLOWING VOTE (7-0-0-0-0) THAT THE PLANNING COMMISSION HOLD PUBLIC HEARING;

**AND**

**RECOMMEND THAT THE CITY COUNCIL FIND THAT THE INITIAL STUDY AND MITIGATED NEGATIVE DECLARATION CIRCULATED FOR THE PROJECT HAS EVALUATED THE POTENTIAL IMPACTS THAT THIS PROJECT COULD CAUSE, EITHER INDIVIDUALLY OR CUMULATIVELY, ON WILDLIFE RESOURCES AND FIND THAT THERE IS NO EVIDENCE THE PROJECT WOULD HAVE ANY POTENTIAL FOR ADVERSE EFFECT ON WILDLIFE RESOURCES;**

**AND**

**RECOMMEND THAT THE CITY COUNCIL FIND THAT THE MITIGATED NEGATIVE DECLARATION CIRCULATED FOR THE PROJECT ADEQUATELY ADDRESSES POTENTIAL IMPACTS ARISING FROM THE PROPOSED PROJECT AND THE IDENTIFIED MITIGATION MEASURES, WHICH ARE INCORPORATED AS CONDITIONS OF APPROVAL, WILL REDUCE POTENTIAL IMPACTS TO LESS THAN SIGNIFICANT LEVELS AND FURTHER FIND THAT THIS ACTION REFLECTS THE INDEPENDENT JUDGMENT OF THE CITY OF FREMONT;**

**AND**

**RECOMMEND TO THE CITY COUNCIL APPROVAL OF THE MITIGATION MONITORING PLAN FOR VILLA D'ESTE (PLN2006-00172);**

AND  
RECOMMEND TO THE CITY COUNCIL FIND THAT THE PROJECT IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S HOUSING AND LAND USE CHAPTERS AS ENUMERATED WITHIN THE STAFF REPORT AND THAT IT FULFILLS THE APPLICABLE REQUIREMENTS SET FORTH IN THE FREMONT MUNICIPAL CODE; AND FURTHER RECOMMEND THAT THE CITY COUNCIL FIND THAT THE REQUESTED DEVIATIONS FROM THE CITY'S PRIVATE VEHICLE ACCESS WAYS (PVAW'S), AND ZONING STANDARDS, ARE JUSTIFIED FOR THE REASONS SET FORTH IN THE STAFF REPORT AND IN FINDING NO. 4;

AND  
RECOMMEND THAT THE CITY COUNCIL APPROVE PLN2006-00172, AS PER EXHIBIT "A" (*PRELIMINARY/PRECISE SITE PLAN, ARCHITECTURAL ELEVATIONS, FLOOR PLANS AND LANDSCAPE PLANS*), SUBJECT TO FINDINGS AND CONDITIONS ON EXHIBIT "C";

AND  
FIND VESTING TENTATIVE TRACT MAP 7735, PRIVATE STREET AND PRELIMINARY GRADING PLAN ARE IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S HOUSING AND LAND USE CHAPTERS AS ENUMERATED WITHIN THE STAFF REPORT;

AND  
APPROVE VESTING TENTATIVE TRACT MAP 7735, PRIVATE STREET AND PRELIMINARY GRADING PLAN AS SHOWN ON EXHIBIT "B", SUBJECT TO FINDINGS AND CONDITIONS ON EXHIBIT "C" AND SUBJECT TO SITE PLAN AND ARCHITECTURAL APPROVAL BY THE CITY COUNCIL.

The motion carried by the following vote:

AYES:	7 – Chan, Chugh, Harrison, King, Lorenz, Lydon, and Sharma
NOES:	0
ABSTAIN:	0
ABSENT:	0
RECUSE:	0

## MISCELLANEOUS ITEMS

Information from Commission and Staff:

- Information from staff: Staff will report on matters of interest.  
None.
- Information from Commission: Commission members may report on matters of interest.  
**Commissioner Harrison** believed that the new format for the staff reports was working well. He had noticed that some of the aerial photos were not easy to read. **Planning Director Schwob** stated that staff had noticed the photos, as well, and were working on the problem.

Meeting adjourned at 11:00 P.M.

SUBMITTED BY:

APPROVED BY:

Alice Malotte  
Recording Clerk

Jeff Schwob, Secretary  
Planning Commission